

## SUPREME JUDICIAL COURT OF MAINE

# Bath Iron Works Corp. v. Unemployment Insurance Commission

870 A.2d 580 (Me. 2005) · Decided April 14, 2005

### SUMMARY

The Maine Supreme Judicial Court reviewed the Maine Unemployment Insurance Commission's determination that Andy C. Fitzherbert was eligible for unemployment benefits after being discharged by Bath Iron Works. The court held that the record compelled a finding that Fitzherbert was discharged on April 14, 2003, for misconduct involving violation of the employer's drug-use rule, and vacated the judgment affirming the Commission's decision.

### CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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| COURT                 | Supreme Judicial Court of Maine                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| WRITING FOR THE COURT | Calkins, J.; Alexander; Calkins; Clifford; Dana; Levy; Rudman                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| JURISDICTION          | Maine                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| DECIDED               | April 14, 2005                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| DISPOSITION           | vacated                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| PROCEDURAL POSTURE    | Bath Iron Works appealed from a Superior Court judgment affirming the Maine Unemployment Insurance Commission's decision granting unemployment benefits to Andy C. Fitzherbert. The Supreme Judicial Court of Maine reviewed the administrative decision directly.                                                                                                                                                                                                                                                                                                                                |
| STANDARD OF REVIEW    | The court reviewed the administrative decision directly and would vacate it if it violated constitutional or statutory provisions, exceeded the agency's authority, resulted from unlawful procedure, was affected by bias or legal error, was unsupported by substantial evidence on the whole record, or was arbitrary, capricious, or an abuse of discretion. Because Bath Iron Works bore the burden of proof before the Commission, it also bore the burden on appeal to demonstrate that the Commission was compelled by the record to find that Fitzherbert was discharged for misconduct. |
| PRECEDENTIAL VALUE    | Published precedential decision of the Supreme Judicial Court of Maine                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| PARTIES               | Bath Iron Works Corporation v. Unemployment Insurance Commission, Andy C. Fitzherbert                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

## TOPICS

unemployment benefits

judicial review of agency action

administrative law

appellate procedure

standard of review

## PRACTICE AREAS

employment law

administrative law

unemployment benefits

## QUESTIONS PRESENTED

1. Whether substantial evidence supported the Commission's finding that Fitzherbert was discharged because Bath Iron Works refused to finalize a last chance agreement rather than because of his violation of the employer's drug policy.
2. Whether the administrative record compelled a finding that Fitzherbert was discharged for misconduct connected with his employment, making him ineligible for unemployment benefits under 26 M.R.S.A. § 1043(23).

## HOLDINGS

1. The Commission's finding that Fitzherbert was discharged because Bath Iron Works refused to comply with a last chance agreement was unsupported by substantial evidence because the record compelled a finding that the discharge occurred on April 14, before the negotiations over that agreement.
2. The administrative record compelled the conclusion that Fitzherbert was discharged for misconduct because his conduct constituted an unreasonable violation of a reasonable employer rule prohibiting drug use or possession and could also constitute use or possession of an illegal drug during working hours.

## KEY QUOTATIONS

*"Because the record compels a finding that Fitzherbert was discharged for misconduct, we must vacate the Superior Court's affirmance of the Commission's decision."* (585)

*"Judgment vacated. Case remanded to the Superior Court for entry of judgment vacating the Commission's decision and remanding to the Commission with instructions consistent with this opinion."* (585)

## FACTUAL BACKGROUND

Fitzherbert, a shipfitter at Bath Iron Works, was found in a small workplace building with four other employees while marijuana smoke, marijuana odor, and drug paraphernalia were present. Bath Iron Works maintained rules prohibiting drug use and possession and suspended Fitzherbert after he refused to submit to a drug test. The Commission found that Fitzherbert violated the employer's rules but incorrectly found that he was discharged on May 5 because negotiations over a last chance agreement broke down; the record established that his discharge occurred on April 14, before those negotiations.

## PROCEDURAL HISTORY

Bath Iron Works discharged Fitzherbert and opposed his application for unemployment benefits on the ground that he had been discharged for misconduct connected with his employment. A Commission deputy initially denied benefits, but an administrative hearing officer found Fitzherbert eligible, and the Commission affirmed. The Superior Court affirmed the Commission, after which Bath Iron Works appealed. The Supreme Judicial Court vacated the Superior Court judgment and directed entry of judgment vacating the Commission's decision and remanding to the Commission.

#### DISPOSITION

vacated

#### REMAND INSTRUCTIONS

The case was remanded to the Superior Court for entry of judgment vacating the Commission's decision and remanding the matter to the Commission for further action consistent with the opinion.

#### CASES CITED

- Me. Auto Test Equip. Co. v. Me. Unemployment Ins. Comm'n, 679 A.2d 79, 80 (Me. 1996)
- Douglas v. Bd. of Trs. of the Me. State Ret. Sys., 669 A.2d 177, 179 (Me. 1996)
- Seider v. Bd. of Exam'rs of Psychologists, 2000 ME 206, ¶ 9, 762 A.2d 551, 555
- Moore v. Me. Dep't of Manpower Affairs, Employment Sec. Comm'n, 388 A.2d 516, 519 (Me. 1978)

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